

H.R. 2589

INTRODUCED BY: Rep. Don Edwards (D., CA) on 18 March 1981 and referred to the HPSCI and the Judiciary Committee.

PURPOSE: To prohibit certain disclosures relating to intelligence personnel.

SPECIAL NOTE: Mr. Edwards is the Chairman of the House Judiciary Subcommittee on Civil and Constitutional Rights, the same Subcommittee which, in the 96th Congress, reported an "Identities" bill, which we strongly opposed, to the full Judiciary Committee where it was ultimately defeated by a vote of 21-8.

TITLE: "Intelligence Identities Protection Act"

APPROACH:

(i) Would amend U.S. Criminal Code, title 18;

(ii) Covers two categories of potential defendants, viz., those who have or have had access to classified information that actually identifies a covert agent and those who, as a result of having authorized access to classified information, learn the identity of a covert agent and disclose the identity;

(iii) Mr. Edwards' Bill does not cover individuals who have not had access to identities or classified information;

(iv) For criminal penalties to attach against those who have or have had access to classified information the disclosure must have been intentionally made and made with the knowledge that disclosure does identify the covert agent named and that at the time of the disclosure the U.S. is taking affirmative measures to conceal such covert agent's intelligence relationship. The penalty set for this criminal act is \$50,000 or imprisonment of not more than ten years, or both;

(v) The evidentiary standards for prosecution of the second category of defendant are the same as described immediately above; the penalty is reduced to \$25,000 or imprisonment of not more than five years, or both;

(vi) The Bill provides a defense to prosecution if the U.S. has publicly acknowledged or revealed the protected intelligence relationship;

(vii) The Bill precludes prosecution for conspiracy unless it can be shown that the co-conspirator "acted in the course of an effort to identify and expose covert agents with the intent to impair or impede the foreign intelligence activities of the U.S.";

(viii) The Bill precludes prosecution for disclosures to the Intelligence Oversight Committees of the Congress;

(ix) The Bill precludes prosecution for disclosures by an individual who "solely" identifies himself;

(x) Contains the same "cover" provisions found in H.R. 4 and S. 391;

(xi) The Bill, by definition, excludes protection of FBI foreign counterintelligence and foreign counterterrorism covert informants or agents.